

FILED
for Roanoke
SEP 30 2010
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

RICHARD VILLAR,)	Civil Action No. 7:10-cv-00376
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
TERRY O'BRIEN, <u>et al.</u> ,)	By: Hon. Jackson L. Kiser
Defendant.)	Senior United States District Judge

Richard Villar, a federal inmate proceeding pro se, filed a civil rights complaint, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). By order entered September 3, 2010, the court informed plaintiff, inter alia, that he had not adequately documented his motion for leave to proceed in forma pauperis and provided him twenty days to return the completed forms to the court. The court specifically noted that plaintiff must file documentation of his account for the six months prior to filing the complaint, "obtained from the appropriate prison official of each prison at which the prisoner is or was confined." (Order (no. 2) ¶ 3.) The order also warned plaintiff that his failure to file the requested documentation within the time limit would result in the action being dismissed without prejudice for failing to comply with a court order.

Plaintiff's subsequently filed inmate account form reflected only his inmate account at one of two facilities where petitioner was housed within six months of filing the complaint. See Compl. (discussing the different facilities in which he was housed). Thus, plaintiff failed to comply with the court's order and 28 U.S.C. § 1915(a)(2). See, e.g., Dupree v. Palmer, 284 F.3d 1234, 1237 (11th Cir. 2002) (reasoning that the filing fee is due upon filing a civil action when in forma pauperis provisions do not apply to plaintiff and that the court is not required to permit

plaintiff an opportunity to pay the filing fee after denying leave to proceed in forma pauperis).

As the time allotted for plaintiff to fully document his inmate trust account has expired, plaintiff's complaint is dismissed without prejudice for failing to comply with the conditional filing order and 28 U.S.C. § 1915(a)(2).

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

ENTER: This 30th day of September, 2010.


Senior United States District Judge